REMARKS

Upon entry of the presently made amendments, claims 78 and 80-82 will be pending.

Claim 78 has been amended to recite that the cancer is of the blood, brain, lung or prostate. Support for this amendment is found at least in the specification as filed at page 7, lines 13-15 and claim 50 as filed.

Claims 88-91 have been canceled without prejudice.

No new matter has been added.

Applicants reserve their right to prosecute the subject matter of any canceled or amended claim or any unclaimed subject matter in one or more divisional, continuation or continuation-in-part applications.

I. Summary of Telephonic Interview with Examiner

Applicants thank the Examiner for extending the courtesy of a telephonic interview with Attorney for Applicants Michael J. Bruner on July 11, 2006.

During the telephonic interview, the provisional double patenting rejection and the rejection under 35 U.S.C. § 112, first paragraph, were discussed.

The Examiner indicated that she would consider withdrawing the provisional double patenting rejection over U.S. Application No. 10/718,185 (the "'185 application") and Applicants indicated that they would consider filing a terminal disclaimer in connection with the '185 application once an allowed claim set was reached in the '185 application.

The Examiner suggested that Applicants provide references other than Force *et al.* teaching the nexus between inhibiting JNK and the claimed cancers in order to overcome the rejection under 35 U.S.C. § 112, first paragraph. As discussed below in section III, Applicants have tailored the claims to recite specific cancers and submit herewith peer-reviewed literature references teaching the nexus between inhibiting JNK and the treatment of the claimed cancers.

II. The Double Patenting Rejection

Claims 78, 80-82 and 88-91 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 15-17 of the '185 application. Per M.P.E.P § 804, a provisional double patenting rejection should continue to be made unless it is the sole remaining rejection in one of the

applications. Upon entry of the presently made amendment and remarks, Applicants believe that the sole remaining rejection in the present application will be the provisional double patenting rejection over the '185 application. Applicants will consider filing a terminal disclaimer in connection with the '185 application. Accordingly, Applicants respectfully request that the provisional double patenting rejection over the '185 application be withdrawn.

III. The Rejection of Claims 78, 80-82 and 88-91 Under 35 U.S.C. § 112, First Paragraph

Claims 78, 80-82 and 88-91 are rejected under 35 U.S.C. § 112, first paragraph, for allegedly lacking enablement. In particular, the Examiner has indicated that the claims are not enabled primarily because the specification allegedly lacks guidance as to the actual treatment of cancer *in vivo*. Without acquiescing in the rejection and solely to advance prosecution, Applicants have amended claim 78 to recite methods for treating cancer of the blood, brain, lung or prostate.

Applicants submit herewith the following peer-reviewed literature references (identified as references A01-A07 in the accompanying List of References Cited by Applicant) which teach the nexus between inhibition of the JNK pathway and the claimed diseases:

1) Burgess *et al.*, 1998, "Regulation of the c-*jun* Gene in p210 BCR-ABL Transformed Cells Corresponds With Activity of JNK, the c-*jun* N-Terminal Kinase," *Blood 92(7)*:2450-2460: teaches correlation between heightened JNK activity and blood cancer (*i.e.*, leukemia) (*see* second sentence of last full paragraph in second column at page 2458 and paragraph bridging pages 2458-2459);

2) Cripe *et al.*, 2002, "Role for c-*jun* N-terminal kinase in treatment-refractory acute myeloid leukemia (AML) signaling to multidrug-efflux and hyperproliferation," *Leukemia 16*: 799-812: teaches that JNK is a drug target in blood cancer (*i.e.*, refractory acute myeloid leukemia) (*see* last sentence of Abstract);

3) Hess *et al.*, 2002, Survival signaling mediated by c-Jun NH_2-terminal kinase in transformed B lymphoblasts," *Nature Genetics 32*:201-205: teaches nexus between JNK and proliferative diseases, such as lymphoblastic diseases (*see* last sentence of Abstract and conclusory paragraph at page 204);

4) Bost *et al.*, 1999, "The Jun Kinase 2 Isoform Is Preferentially Required for Epidermal Growth Factor-Induced Transformation of Human A549 Lung Carcinoma Cells," *Molecular and Cellular Biology19(3)*:1938-1949: teaches the nexus between JNK and lung cancer (*see* first sentence of Abstract), brain cancer (*i.e.*, glioblastoma) (*see* second full sentence in first column at page 1947), and prostate cancer (*see* fifth full sentence in first column at page 1947);

5) Yang *et al.*, 2003, "C-Jun NH_2-terminal Kinase Mediates Proliferation and Tumor Growth of Human Prostate Carcinoma," *Clinincal Cancer Research 9*:391-401: teaches the nexus between JNK and prostate cancer (*see* Conclusion at page 391 last full paragraph of Discussion at page 399);

6) Tsuuiki *et al.*, 2003, "Constitutively Active Forms of c-Jun NH_2-terminal Kinase Are Expressed in Primary Glial Tumors," *Cancer Research 63*:250-255: teaches nexus JNK and brain tumors (*e.g.*, glial tumors) (*see* third to last sentence of Abstract and second paragraph of Discussion; and

7) Potapova *et al.*, 2000, "c-Jun N-terminal Kinase Is Essential for Growth of Human T98G Glioblastoma Cells," *J. Biol. Chem. 275(32)*:24767-24775: teaches that JNK is required for growth of certain brain cancer cells (*e.g.*, glioblastoma cells) (*see* last sentence of Abstract and 2nd and 3rd full sentences of the first column at page 24768).

Applicants respectfully submit that the references set forth above evidence the nexus between the inhibition of JNK and the treatment of at least cancers of the blood, brain, prostate and lung.

Thus, in view of the documentation in the literature regarding the nexus between the claimed cancers and the inhibition of JNK and the demonstration that the claimed indazoles are inhibitors of JNK, Applicants respectfully submit that the pending claims are enabled and that it is within the means of those skilled in the art to practice the present claims without undue experimentation.

In view of the above-made amendments and remarks, Applicants respectfully submit that the specification enables the pending method of treatment claims and, accordingly, that the rejection under 35 U.S.C. § 112, first paragraph, has been overcome and should be withdrawn.

Conclusion

Applicants respectfully request that the above remarks be entered in the present application file. No fee is believed to be due in connection with this Response other than that due in connection with the Supplemental Information Disclosure Statement and Petition for Extension of Time; however, in the event that any additional fee is due, please charge the required fee to Jones Day Deposit Account No. 50-3013.

Respectfully submitted,

Anthony M. Insogna, Reg. No. 35,203

By: Michael J. Bruner, Reg. No. 47,458

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By: Michael J. Bruner (Reg. No. 47,458)
JONES DAY
222 East 41st Street
New York, New York 10017
(404) 581-8614

For: Anthony M. Insogna (Reg. No. 35,203)
JONES DAY
12750 High Bluff Drive, Suite 300
San Diego, California 92130
(858) 314-1130

Enclosures